

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

HANSEN-RICE, INC.,)	
)	Case No. CV-04-101-S-BLW
Plaintiff,)	
)	MEMORANDUM
v.)	DECISION AND ORDER
)	
CELOTEX CORPORATION, a Delaware)	
Corporation, and Does 1 through 10,)	
Inclusive,)	
)	
Defendants.)	
_____)	
CELOTEX CORPORATION,)	
)	
Third-Party Plaintiff,)	
)	
v.)	
)	
THE DOW CHEMICAL COMPANY,)	
a Delaware Corporation, and LARRY)	
DEE VAN SICKLE, an Individual,.)	
)	
Defendants.)	
_____)	

The Court has before it Celotex's motion for reconsideration. In an earlier decision, the Court allowed Hansen-Rice to amend its complaint to add a claim for punitive damages, and found questions of fact on a statute of limitations argument presented by Celotex.

With regard to the punitive damage analysis, Celotex is correct that all inferences should not be granted to Hansen-Rice and the truth of witnesses should not be assumed. At the same time, Hansen-Rice need not prove its right to punitive damages by a preponderance of the evidence – it need only show a reasonable likelihood of obtaining them at trial. While there is contrary evidence, the testimony of Van Sickle and others (as set forth in the earlier decision) is favorable to Hansen-Rice, and likely could persuade a jury.

Thus, even without inferences and assumptions, the Court's conclusion is the same. Moreover, the Court is not persuaded that it should change its ruling finding questions of fact on the warranty claims.

ORDER

In accordance with the terms of the Memorandum Decision set forth above,
NOW THEREFORE IT IS HEREBY ORDERED, that Celotex's Motion for Reconsideration (Docket No. 85) is DENIED.



DATED: **June 22, 2006**


B. LYNN WINMILL

Chief Judge
United States District Court